



[6560-50-P]

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R09-OAR-2018-0221, FRL-9985-84-Region 9]**

#### **Approval and Promulgation of Air Quality Implementation Plans; Nevada; Rescission of Regional Haze Federal Implementation Plan for the Reid Gardner Generating Station**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final Rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving the Nevada Division of Environmental Protection's (NDEP) request to rescind a Regional Haze Federal Implementation Plan (RH FIP) that regulates air pollutant emissions from Reid Gardner Generating Station (RGGS) Units 1, 2, and 3. The EPA is approving NDEP's request because RGGS Units 1-3 have been permanently decommissioned and are being dismantled and demolished.

**DATES:** This rule is effective **[Insert date 30 days after the date of publication in the Federal Register]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2018-0221. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please

contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Krishna Viswanathan, EPA, Region IX, Air Division, Air Planning Office, (520) 999-7880 or viswanathan.krishna@epa.gov.

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us,” and “our” refer to the EPA.

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### **I. Proposed Action and Public Comment Period**

On May 31, 2018, the EPA proposed to rescind the RH FIP for RGGS Units 1-3 because RGGS Units 1-3 have been permanently decommissioned and are being dismantled and demolished, as demonstrated by the supporting documentation provided by NDEP.<sup>1</sup> The EPA’s proposed action provided a 45-day public comment period. The EPA did not receive any timely or germane comments on the proposal to rescind the RGGS RH FIP.

### **II. Final Action**

For the reasons explained in our proposal, we are approving the NDEP’s request to rescind the RH FIP for RGGS Units 1-3.

### **III. Statutory and Executive Order Reviews**

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

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<sup>1</sup> For details on the EPA’s RH FIP and additional background, see proposal at 83 FR 24952 (May 31, 2018).

A. *Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. *Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs*

This action is not an Executive Order 13771 regulatory action because this action removes existing Federal Implementation Plan and associated requirements covering a single electric power generating station and therefore is a rule of particular applicability. Rules of particular applicability are exempted under Executive Order 12866.

C. *Paperwork Reduction Act (PRA)*

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

D. *Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. As detailed in the proposal to this action, small entities are not subject to the requirements of this rule.<sup>2</sup>

E. *Unfunded Mandates Reform Act (UMRA)*

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private

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<sup>2</sup> For details on the EPA's RH FIP and additional background, see proposal at 83 FR 24952 (May 31, 2018).

sector.

*F. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

*G. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments*

This action does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on any Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes. Thus, Executive Order 13175 does not apply to this action.

*H. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks*

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it merely rescinds a Federal Implementation Plan (FIP) covering a generating station that has been permanently decommissioned and is being dismantled and demolished.

*I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

*J. National Technology Transfer and Advancement Act*

This rulemaking does not involve technical standards. The EPA is not revising any technical standards or imposing any new technical standards in this action.

*K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994), because it does not affect the level of protection to human health or the environment. This rule will not cause any emissions increases because this rule merely rescinds a FIP covering a generating station that has been permanently decommissioned and is being dismantled and demolished.

*L. Determination Under Section 307(d)*

Pursuant to CAA section 307(d)(1)(B), the EPA has determined that this action is subject to the provisions of section 307(d). Section 307(d) establishes procedural requirements specific to certain rulemaking actions under the CAA. Pursuant to CAA section 307(d)(1)(B), the rescission of the RGGS RH FIP is subject to the requirements of CAA section 307(d), as it constitutes a revision to a FIP under CAA section 110(c). Furthermore, CAA section 307(d)(1)(V) provides that the provisions of section 307(d) apply to “such other actions as the Administrator may determine.” The EPA determines that the provisions of 307(d) apply to the EPA’s action on the RGGS RH FIP rescission.

*M. Congressional Review Act (CRA)*

This rule is exempt from the CRA because it is a rule of particular applicability. The EPA

is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability that only applies to a single facility.

*N. Petitions for Judicial Review*

Under CAA section 307(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after the date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Nitrogen dioxide, Incorporation by reference.

**AUTHORITY:** 42 U.S.C. 7401 *et seq.*

Dated: October 19, 2018.

Andrew R. Wheeler,  
Acting Administrator.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

**PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart DD – Nevada**

2. Section 52.1488 is amended by removing and reserving paragraph (f).

[FR Doc. 2018-23470 Filed: 10/25/2018 8:45 am; Publication Date: 10/26/2018]